



## **DECLARATION AND POWER OF ATTORNEY**

(Attorney Docket No: 107223.167 (US2))

As below-named inventors, we hereby declare that:

Our residences, post office addresses and citizenship are as stated below next to our names.

We believe that we are the original, and only inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**SUSTAINED RELEASE FORMULATIONS OF METFORMIN**  
the specification of which (check only one):

is attached hereto.

was filed as United States Patent Application  
Serial No. 10/630,239 on July 30, 2003

was filed as PCT Patent Application Serial No. \_\_\_\_\_ on \_\_\_\_\_  
and was amended under PCT Article 19 on \_\_\_\_\_ (if applicable)

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, CFR §1.56(a) and §1.56(b).

We hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(e) or 365(b) of any foreign application(s) for patent or inventor's certificate or 365(a) of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by us on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

### **PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119(a)-(d) or 365(b), or 365(a):**

COUNTRY (if PCT indicate PCT)	APPLICATION NUMBER	DATE OF FILING	PRIORITY CLAIMED UNDER 35 U.S.C. §119 (YES/NO)

We hereby claim benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

APPLICATION NUMBER	DATE OF FILING	STATUS: PENDING OR ABANDONED
60/400,046	Aug. 2, 2002	Abandoned

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or 365(c) of any PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior applications and the national or PCT international filing date of this application:

**PRIOR U.S. APPLICATION OR PCT INTERNATIONAL APPLICATION(S)  
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. §120 or 365(c):**

APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS: (PATENTED, PENDING OR ABANDONED)

**POWER OF ATTORNEY:** As named inventors, we hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

**CUSTOMER NUMBER 23483**

the mailing address and telephone number of each of whom is c/o HALE AND DORR LLP, 60 State Street, Boston, Massachusetts 02109 U.S.A., (617) 526-6000.

Send Correspondence to:

Eric L. Prahl  
HALE AND DORR LLP  
60 State Street  
Boston, Massachusetts 02109

Direct Telephone Calls to:

Eric L. Prahl  
(617) 526-6000 Phone  
(617) 526-5000 Facsimile

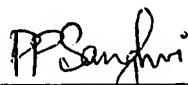
Wherefore, we petition that letters patent be granted to us for the invention or discovery described and claimed in the attached specification and claims, and hereby subscribe our names to said specification and claims and to the foregoing declaration, power of attorney, and this petition.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that

such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**Full name of first inventor: Pradeep P. Sanghvi**

Inventor's signature



Date 1/16/04

Citizenship:

United States of America

Residence:

9 Indian Hill Lane, New Fairfield, CT 06812

Post Office Address: Same

**Full name of second inventor: Sara Ketsela**

Inventor's signature



Date 1/20/04

Citizenship:

United States of America

Residence:

55 Mill Plain Road, Danbury, CT 06811

Post Office Address: Same

# **COPY**

## **ASSIGNMENT**

WHEREAS, we, **Pradeep P. Sanghvi**, being a citizen of the United States of America, residing at 9 Indian Hill Lane, New Fairfield, CT 06812; and **Sara Ketsela**, being a citizen of the United States of America, residing at 55 Mill Plain Road, Danbury, CT 06811 are co-inventors of certain new and useful inventions and discoveries, for which an application for Letters Patent entitled "**Sustained Release Formulations of Metformin**," was filed with the United States Patent and Trademark Office on July 30, 2003, and assigned United States Patent Application Number 10/630,239; and

WHEREAS, **Penwest Pharmaceuticals Company**, whose business address is 2981 Route 22, Patterson, New York 12563-9770, and which, together with its successors and assigns is hereinafter called "**ASSIGNEE**," is desirous of acquiring the title, rights, benefits, and privileges hereinafter recited;

NOW, THEREFORE, for and in consideration of good and valuable consideration furnished by **ASSIGNEE** to us, receipt and sufficiency of which we hereby acknowledge, we hereby, without reservations:

1. Assign, transfer, and convey to **ASSIGNEE** my entire right, title, and interest in and to said inventions and discoveries, said application for Letters Patent, any and all other applications for Letters Patent on said inventions and discoveries in whatsoever countries, including all divisional, renewal, substitute, continuation, continuation-in-part, continued prosecution applications, and convention applications based in whole, or in part, upon said inventions or discoveries, or upon said applications, and any and all Letters Patents, reissues, and extensions of Letters Patent granted for said inventions and discoveries or upon said applications, and every priority right that is or may be predicated upon, or arise from, said inventions, said discoveries, said applications, and said Letters Patent;

2. Authorize **ASSIGNEE** to file patent applications in any or all countries on any or all of said inventions and discoveries in my name or in the name of **ASSIGNEE** or otherwise as **ASSIGNEE** may deem advisable, under International Conventions or otherwise;

3. Authorize and request the Commissioner of Patents and Trademarks of the United States of America and the empowered officials of all other governments throughout the world to issue or transfer all said Letters Patents to **ASSIGNEE**, as assignee of the entire right, title, and interest therein or otherwise as **ASSIGNEE** may direct;

4. Warrant that I have not knowingly conveyed to others any right in said inventions, discoveries, applications, or patents, or any license to use the same, or to make, use, or sell anything embodying or utilizing any of said inventions or discoveries; and that I have good right to assign the same to **ASSIGNEE** without encumbrance;

5. Bind my heirs, legal representatives, and assigns, as well as myself, to do, upon **ASSIGNEE**'s request and at **ASSIGNEE**'s expense, but without additional consideration to me or them, all acts reasonably serving to assure that said inventions and discoveries, said patent applications, and said

Letters Patents shall be held and enjoyed by ASSIGNEE as fully and entirely as the same could have been held and enjoyed by me, my heirs, legal representatives, and assigns if this Assignment had not been made; and particularly to execute and deliver to ASSIGNEE all lawful application documents including petitions, specifications, and oaths, and all assignments, disclaimers, and lawful affidavits in form and substance as may be requested by ASSIGNEE; and to communicate to ASSIGNEE all facts known to me relating to said inventions and discoveries or the history thereof, and to testify as to the same in any court or proceeding; and to furnish ASSIGNEE any and all documents, photographs, models, samples, and other physical exhibits in my control or in the control of my heirs, legal representatives, or assigns which may be useful for establishing the facts of my conceptions, disclosures, and reduction to practice of said inventions and discoveries.

WITNESS my hand and seal this 16 day of January, 2004.

By: Pradeep P. Sanghvi  
Pradeep P. Sanghvi

State of New York )  
County of Putnam )

Then personally appeared before me this 16<sup>th</sup> day of January, 2004, the above named Pradeep P. Sanghvi who acknowledged the forgoing instrument to be his free act and deed.

SARA S. TROY  
Notary Public, State of New York  
No. 01TR5013123  
Qualified in Dutchess County  
Commission Expires July 15, 2007

Sara S. Troy  
Notary Public  
July 15, 2007  
Commission Expiration Date

WITNESS my hand and seal this 20<sup>th</sup> day of January, 2004.

By: Sara Ketsela  
Sara Ketsela

State of New York )  
County of Putnam )

Then personally appeared before me this 20<sup>th</sup> day of January, 2004, the above named Pradeep P. Sanghvi who acknowledged the forgoing instrument to be his free act and deed.

SARA S. TROY  
Notary Public, State of New York  
No. 01TR5013123  
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